IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 24TH MAY 2007 / 3RD JYAISHTA 1929

Crl.MC.No. 1551 of 2007()

CRIME NO.640/02 OF KALADY POLICE STATION.

PETITIONER: ACCUSED

THOMAS,AGED 45 YEARS,
S/O.JOSEPH,MOLATHAN HOUSE,
MALAYATTOOR KARA,
MALAYATTOOR VILLAGE,
ALUVA TALUK.

BY ADV. SRI.K.SUNILKUMAR

RESPONDENTS: COMPLAINANT

STATE OF KERALA,
REP.BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA,
ERNAKULAM.

BY P.P. SRI.S.U. NAZAR.

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 24/05/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

CRL.M.C.NO. 1551 OF 2007

Dated this the 24th day of May, 2007

ORDER

The petitioner faces allegations of having committed the offence punishable under the Kerala Abkari Act. The alleged occurrence had taken place as early as on 22/11/2002. Investigation is pending. The petitioner has not been arrested so far.

2. According to the learned counsel for the petitioner, the petitioner is absolutely innocent. He apprehends that if he surrenders before the learned Magistrate and applies for bail, he may be remanded to custody by the learned Magistrate. It is, in these circumstances, that the petitioner has come to this Court for a direction to the learned Magistrate to release him on bail when he appears before the learned Magistrate.

3. I find absolutely no merit in the prayer for issue of directions under Sec.482 of the Cr.P.C. It is for the petitioner

to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which he could not earlier appear before the learned Magistrate. I have no reason to assume that the learned Magistrate would not consider the petitioner's application for regular bail on merits in accordance with law and expeditiously. No special or specific directions appear to be necessary. Every court must do the same. Sufficient general directions on this aspect have already been issued in the decision reported in **Alice George v. Deputy Superintendent of Police** (2003 (1) KLT 339).

4. In the result, this Crl.M.C. is dismissed; but with the observation that if the petitioner surrenders before the learned Magistrate and seeks bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously – on the date of surrender itself, unless compelling and exceptional reasons are there.

5. Hand over a copy of this order to the learned counsel for the petitioner.

Sd/-

(R. BASANT, JUDGE)

Nan/ //true copy// P.S. To Judge